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8 **IN THE UNITED STATES DISTRICT COURT**
FOR THE
9 **NORTHERN MARIANA ISLANDS**

10 MICHAEL W. KENNEDY dba MKI
AIRCONDITIONING and
11 REFRIGERATION,

12 Plaintiff,

13 vs.

14 ROSALINA T. GABUTIN,
JOSEPH C. GABUTIN,
15 FELIX M. MENDIOLA,
LOURDES T. MENDIOLA,
16 JOAQUIN F. TUDELA, SR. and
EDITH C. TUDELA

17 Defendants
18

Civil Action No. CV-03-0016

DECLARATION IN SUPPORT OF
MOTION FOR AN ORDER
TO SHOW CAUSE

Date:
Time:
Judge: Alex R. Munson

19 I, ERIC S. SMITH, declare under penalty of perjury as follows:

- 20 1. I am one of the attorneys for Plaintiff in the above referenced case.
21 2. The facts set forth in the attached Motion for Order to Show Cause in re:
22 Contempt are true and accurate to the best of my knowledge.
23 3. On August 20, 2004, the Court granted Plaintiff's Application for Writ of
24 Execution, and directing said Writ of Execution to "create a lien and continuing
25 levy upon real property, rents, payments, income and profits of Rosalina T.
26 Gabutin, in an amount not exceeding \$88,926.67 plus accrued interest."
27 4. On or about June 16, 2004, Mr. Mongkeya entered into a lease agreement with
28 Rosalina Gabutin for Ms. Gabutin's house and lot (Lot No. 016 K 59) in Gatbu

1 Avenue, Dandan.

2 5. Mr. Mongkeya was provided with a copy of the Court's order and was informed
3 that rent should be paid to Plaintiff.

4 6. Mr. Mongkeya occupied the premises without paying rent and on March 28, 2005,
5 the Court found that he was in arrears in the amount of \$1,300.00.

6 7. On March 28, 2005, Mr. Mongkeya was ordered by this Court to: a) pay Plaintiff,
7 through Smith & Williams, the arrearages owed on the rent by installment
8 payments at the rate of \$50.00 per month beginning March 31, 2005; and b) to pay
9 Plaintiff, through the offices of its attorney, Smith & Williams, the monthly rent
10 of \$250.00 on March 31, 2005.

11 8. Mr. Mongkeya disobeyed the Court's order in that he failed to make the payments
12 as promised. On August 26, 2005, Plaintiff filed a Motion for an Order to Show
13 Cause in Re: Contempt against Mr. Mongkeya.

14 9. On September 1, 2006, Mr. Mongkeya entered into a stipulation with Plaintiff
15 wherein he promised to pay \$300.00 per month every 30th of the month until his
16 outstanding balance is paid in full. This matter was scheduled for a review
17 hearing on September 30, 2005.

18 10. On September 30, 2005, Mr. Mongkeya entered into a new stipulation with
19 Plaintiff wherein he promised to pay \$100.00 per payday through a direct-deposit
20 to Smith & Williams' trust account. Mr. Mongkeya informed Plaintiff that he was
21 no longer occupying Rosalina Gabutin's house.

22 11. Mr. Mongkeya fell in arrears once again when he stopped making payments on
23 April 6, 2006.

24 12. As of this date, Mr. Mongkeya's outstanding balance is \$3,408.06.

25

26 I declare under penalty of perjury that the foregoing is true and correct and
27 that this Declaration was executed on July 5, 2006, at Garapan, CNMI

28

//Eric S. Smith//
ERIC S. SMITH
Declarant